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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

IPC INTERNATIONAL CORPORATION  
et al.,

Petitioners,

v.

THE SUPERIOR COURT OF  
SAN BERNARDINO COUNTY,

Respondent;

DEE ANN AUTEN et al.,

Real Parties in Interest.

E055612

(Super.Ct.No. CIVRS1012463)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Janet M. Frangie, Judge.

Petition granted in part; denied in part.

Morris Polich & Purdy, Jens B. Koepke, John W. Shaw and Holiday D. Powell for  
Petitioners.

No appearance for Respondent.

Law Offices of Vincent J. Tien and Vincent J. Tien for Real Parties in Interest.

## INTRODUCTION

In this matter, we have reviewed the petition and the opposition filed by real parties in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

## DISCUSSION

The evidence presented by petitioner Fernando Chavez established that he was not the security responder who dealt with the alleged perpetrator, Alcantar,<sup>1</sup> in the first instance. Chavez was merely on his way to the incident site when he was notified that the matter had been taken care of. We note that insofar as Chavez's declaration was "self-serving," that does not authorize the trial court to disregard it. (See Code Civ. Proc., § 437c, subd. (e).) Chavez's first connection with the incident, as cited by real parties in interest, was that he saw real party in interest Phillip Auten running alongside Alcantar's truck *after* the incident. Obviously, this does not demonstrate any breach of duty to *prevent* the incident and, in our view, real parties in interest are casting their net too widely.

## DISPOSITION

Accordingly, with respect to petitioner Chavez, the petition will be granted. In all other respects, the petition is denied as a triable issue of fact exists as to whether petitioner IPC International Corporation took reasonable measures to control Alcantar or prevent him from causing injury. (See *Delgado v. Trax Bar & Grill* (2005) 36 Cal.4th 224.)

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<sup>1</sup> Alcantar is not a party in this petition for writ.

Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to vacate its order denying Chavez's motion for summary judgment, and to enter a new order granting said motion.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

In the interests of justice, each party shall bear their own costs.

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RICHLI

Acting P. J.

We concur:

HOLLENHORST

J.

McKINSTER

J.